

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2400**

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**Introduced by Assembly Member Butler**

February 24, 2012

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An act to amend ~~Section 1596.66~~ of Sections 1502 and 1507 of, and to add Section 1524.8 to, the Health and Safety Code, relating to ~~license-exempt child care providers health and care facilities~~.

LEGISLATIVE COUNSEL'S DIGEST

AB 2400, as amended, Butler. ~~License-exempt child care providers. Social rehabilitation facilities.~~

*Existing law, the California Community Care Facilities Act, requires the State Department of Social Services to license and regulate community care facilities, including social rehabilitation facilities, as defined. Existing law authorizes a community care facility to provide incidental medical services, as specified. A violation of community care facility provisions is a misdemeanor.*

*This bill would prohibit a licensed social rehabilitation facility from employing more than one licensed physician or surgeon or registered nurse for every 6 patients. This bill would provide that medical services provided by a social rehabilitation facility that employs more than one licensed physician or surgeon or registered nurse for every 6 patients shall not be considered incidental medical services. This bill would presume excessive a rate charged by a social rehabilitation facility that is more than 150% of the rate the state pays for similar services, and require the department to investigate complaints of excessive rates. This bill would require the department to issue an order to a facility charging excessive rates that requires the facility to reduce its rate to*

*an amount that is no longer excessive, as determined by the department, or justify its rate at a hearing, as specified, after which the department would issue an order determining a reasonable rate the facility may charge.*

*By expanding the definition of a crime, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law requires a license-exempt child care provider receiving payment for child care services pursuant to specified provisions of law to be registered as a trustline provider, unless the provider is exempted from registration due to being the grandparent, aunt, or uncle of the child in care.~~

~~This bill would make technical, nonsubstantive changes to these provisions, and would delete an obsolete cross-reference.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 1502 of the Health and Safety Code is  
2 amended to read:

3 1502. As used in this chapter:

4 (a) "Community care facility" means any facility, place, or  
5 building that is maintained and operated to provide nonmedical  
6 residential care, day treatment, adult day care, or foster family  
7 agency services for children, adults, or children and adults,  
8 including, but not limited to, the physically handicapped, mentally  
9 impaired, incompetent persons, and abused or neglected children,  
10 and includes the following:

11 (1) "Residential facility" means any family home, group care  
12 facility, or similar facility determined by the director, for 24-hour  
13 nonmedical care of persons in need of personal services,  
14 supervision, or assistance essential for sustaining the activities of  
15 daily living or for the protection of the individual.

1 (2) “Adult day program” means any community-based facility  
2 or program that provides care to persons 18 years of age or older  
3 in need of personal services, supervision, or assistance essential  
4 for sustaining the activities of daily living or for the protection of  
5 these individuals on less than a 24-hour basis.

6 (3) “Therapeutic day services facility” means any facility that  
7 provides nonmedical care, counseling, educational or vocational  
8 support, or social rehabilitation services on less than a 24-hour  
9 basis to persons under 18 years of age who would otherwise be  
10 placed in foster care or who are returning to families from foster  
11 care. Program standards for these facilities shall be developed by  
12 the department, pursuant to Section 1530, in consultation with  
13 therapeutic day services and foster care providers.

14 (4) “Foster family agency” means any organization engaged in  
15 the recruiting, certifying, and training of, and providing  
16 professional support to, foster parents, or in finding homes or other  
17 places for placement of children for temporary or permanent care  
18 who require that level of care as an alternative to a group home.  
19 Private foster family agencies shall be organized and operated on  
20 a nonprofit basis.

21 (5) “Foster family home” means any residential facility  
22 providing 24-hour care for six or fewer foster children that is  
23 owned, leased, or rented and is the residence of the foster parent  
24 or parents, including their family, in whose care the foster children  
25 have been placed. The placement may be by a public or private  
26 child placement agency or by a court order, or by voluntary  
27 placement by a parent, parents, or guardian. It also means a foster  
28 family home described in Section 1505.2.

29 (6) “Small family home” means any residential facility, in the  
30 licensee’s family residence, that provides 24-hour care for six or  
31 fewer foster children who have mental disorders or developmental  
32 or physical disabilities and who require special care and supervision  
33 as a result of their disabilities. A small family home may accept  
34 children with special health care needs, pursuant to subdivision  
35 (a) of Section 17710 of the Welfare and Institutions Code. In  
36 addition to placing children with special health care needs, the  
37 department may approve placement of children without special  
38 health care needs, up to the licensed capacity.

39 (7) “Social rehabilitation facility” means any residential facility  
40 that provides social rehabilitation services for no longer than 18

1 months in a group setting to adults recovering from mental illness  
2 who temporarily need assistance, guidance, or counseling. Program  
3 components shall be subject to program standards pursuant to  
4 Article 1 (commencing with Section 5670) of Chapter 2.5 of Part  
5 2 of Division 5 of the Welfare and Institutions Code. *A licensed*  
6 *social rehabilitation facility shall not employ more than one*  
7 *licensed physician or surgeon or registered nurse for every six*  
8 *residents.*

9 (8) “Community treatment facility” means any residential  
10 facility that provides mental health treatment services to children  
11 in a group setting and that has the capacity to provide secure  
12 containment. Program components shall be subject to program  
13 standards developed and enforced by the State Department of  
14 Mental Health pursuant to Section 4094 of the Welfare and  
15 Institutions Code.

16 Nothing in this section shall be construed to prohibit or  
17 discourage placement of persons who have mental or physical  
18 disabilities into any category of community care facility that meets  
19 the needs of the individual placed, if the placement is consistent  
20 with the licensing regulations of the department.

21 (9) “Full-service adoption agency” means any licensed entity  
22 engaged in the business of providing adoption services, that does  
23 all of the following:

24 (A) Assumes care, custody, and control of a child through  
25 relinquishment of the child to the agency or involuntary termination  
26 of parental rights to the child.

27 (B) Assesses the birth parents, prospective adoptive parents, or  
28 child.

29 (C) Places children for adoption.

30 (D) Supervises adoptive placements.

31 Private full-service adoption agencies shall be organized and  
32 operated on a nonprofit basis. As a condition of licensure to provide  
33 intercountry adoption services, a full-service adoption agency shall  
34 be accredited and in good standing according to Part 96 of Title  
35 22 of the Code of Federal Regulations, or supervised by an  
36 accredited primary provider, or acting as an exempted provider,  
37 in compliance with Subpart F (commencing with Section 96.29)  
38 of Part 96 of Title 22 of the Code of Federal Regulations.

1 (10) “Noncustodial adoption agency” means any licensed entity  
2 engaged in the business of providing adoption services, that does  
3 all of the following:

4 (A) Assesses the prospective adoptive parents.

5 (B) Cooperatively matches children freed for adoption, who are  
6 under the care, custody, and control of a licensed adoption agency,  
7 for adoption, with assessed and approved adoptive applicants.

8 (C) Cooperatively supervises adoptive placements with a  
9 full-service adoptive agency, but does not disrupt a placement or  
10 remove a child from a placement.

11 Private noncustodial adoption agencies shall be organized and  
12 operated on a nonprofit basis. As a condition of licensure to provide  
13 intercountry adoption services, a noncustodial adoption agency  
14 shall be accredited and in good standing according to Part 96 of  
15 Title 22 of the Code of Federal Regulations, or supervised by an  
16 accredited primary provider, or acting as an exempted provider,  
17 in compliance with Subpart F (commencing with Section 96.29)  
18 of Part 96 of Title 22 of the Code of Federal Regulations.

19 (11) “Transitional shelter care facility” means any group care  
20 facility that provides for 24-hour nonmedical care of persons in  
21 need of personal services, supervision, or assistance essential for  
22 sustaining the activities of daily living or for the protection of the  
23 individual. Program components shall be subject to program  
24 standards developed by the State Department of Social Services  
25 pursuant to Section 1502.3.

26 (12) “Transitional housing placement facility” means a  
27 community care facility licensed by the department pursuant to  
28 Section 1559.110 to provide transitional housing opportunities to  
29 persons at least 16 years of age, and not more than 18 years of age  
30 unless the requirements of Section 11403 and paragraph (1) of  
31 subdivision (a) of Section 11403.2 of the Welfare and Institutions  
32 Code are met, who are in out-of-home placement under the  
33 supervision of the county department of social services or the  
34 county probation department, and who are participating in an  
35 independent living program.

36 (b) “Department” or “state department” means the State  
37 Department of Social Services.

38 (c) “Director” means the Director of Social Services.

39 *SEC. 2. Section 1507 of the Health and Safety Code is amended*  
40 *to read:*

1 1507. (a) Notwithstanding any other provision of law,  
2 incidental medical services may be provided in a community care  
3 facility. If the medical services constitute a substantial component  
4 of the services provided by the community care facility as defined  
5 by the director in regulations, the medical services component  
6 shall be approved as set forth in Chapter 1 (commencing with  
7 Section 1200) or Chapter 2 (commencing with Section 1250).

8 (b) Notwithstanding any other provision of law, if the  
9 requirements of subdivision (c) are met, the department shall permit  
10 incidental medical services to be provided in community care  
11 facilities for adults by facility staff who are not licensed health  
12 care professionals but who are trained by a licensed health care  
13 professional and supervised according to the client’s individualized  
14 health care plan prepared pursuant to subdivision (c). Incidental  
15 medical services provided by trained facility staff for the following  
16 conditions shall be limited as follows:

17 (1) Colostomy and ileostomy: changing bags and cleaning  
18 stoma.

19 (2) Urinary catheter: emptying bags in day care facilities;  
20 emptying and changing bags in residential facilities.

21 (3) Gastrostomy: feeding, hydration, cleaning stoma, and adding  
22 medication per physician’s or nurse practitioner’s orders for the  
23 routine medication of patients with chronic, stable conditions.

24 (c) Facility staff may provide incidental medical services if the  
25 following conditions have been met:

26 (1) For regional center clients the following shall apply:

27 (A) An individualized health care plan, which may be part of a  
28 client’s individual program plan, shall be prepared for each client  
29 by a health care team that shall include the client or his or her  
30 designee if the client is not able to participate in planning his or  
31 her health care, the client’s primary care physician or nurse  
32 practitioner or other health care professional designated by the  
33 physician or nurse practitioner, the licensee or licensee’s designee,  
34 any involved social worker or regional center worker, and any  
35 health care professional designated to monitor the client’s  
36 individualized health care plan.

37 (B) The client’s individualized health care plan shall be  
38 reassessed at least every 12 months or more frequently as  
39 determined by the client’s physician or nurse practitioner during

1 the time the client receives incidental medical services in the  
2 facility.

3 (C) The client's regional center, primary care physician or nurse  
4 practitioner, or other health care professional designated by the  
5 physician or nurse practitioner shall identify the health care  
6 professional who shall be responsible for training facility staff in  
7 the provision of incidental medical services.

8 (D) Facility staff shall be trained by the identified health care  
9 professional practicing within his or her scope of practice who  
10 shall monitor, according to the individualized health care plan, the  
11 staff's ability to provide incidental medical services and who shall  
12 review, correct, or update facility staff training as the health care  
13 professional deems necessary.

14 (E) The regional center or placing agency shall evaluate,  
15 monitor, and have responsibility for oversight of the incidental  
16 medical services provided in the facility by facility staff. However,  
17 nothing in this section shall preclude the department from taking  
18 an administrative action against a licensee or facility staff member  
19 for failure or refusal to carry out, or negligence in carrying out,  
20 his or her duties in providing these incidental medical services.

21 (2) For persons who are not regional center clients, the following  
22 shall apply:

23 (A) An individualized health care plan shall be prepared that  
24 includes the physician's or nurse practitioner's order for services  
25 to be provided during the time the client is in the day care facility.  
26 The plan shall be prepared by a team that includes the client or his  
27 or her designee if the client is not able to participate in planning  
28 his or her care, the client's social worker, conservator, or legal  
29 guardian, as appropriate, a licensed health care professional, and  
30 the licensee or the licensee's designee.

31 (B) The client's individualized health care plan shall be  
32 reassessed at least every 12 months or more frequently as  
33 determined by the client's physician or nurse practitioner during  
34 the time the client receives incidental medical services in the  
35 facility.

36 (C) A licensed health care professional practicing within his or  
37 her scope of practice shall train the staff of the facility on  
38 procedures for caring for clients who require incidental medical  
39 services and shall periodically review, correct, or update facility  
40 staff training as the health care professional deems necessary.

1 (d) Facilities providing incidental medical services shall remain  
 2 in substantial compliance with all other applicable regulations of  
 3 the department.

4 (e) The department shall adopt emergency regulations for  
 5 community care facilities for adults by February 1, 1997, to do all  
 6 of the following:

7 (1) Specify incidental medical services that may be provided.  
 8 These incidental medical services shall include, but need not be  
 9 limited to, any of the following: gastrostomy, colostomy, ileostomy,  
 10 and urinary catheters.

11 (2) Specify the conditions under which incidental medical  
 12 services may be provided.

13 (3) Specify the medical services that, due to the level of care  
 14 required, are prohibited services.

15 (f) The department shall consult with the State Department of  
 16 Developmental Services, the State Department of Mental Health,  
 17 the Association of Regional Center Agencies, and provider  
 18 associations in the development of the regulations required by  
 19 subdivision (e).

20 (g) *Medical services that are provided by a social rehabilitation*  
 21 *facility that employs more than one licensed physician or surgeon*  
 22 *or registered nurse for every six residents shall not be considered*  
 23 *incidental medical services.*

24 *SEC. 3. Section 1524.8 is added to the Health and Safety Code,*  
 25 *to read:*

26 *1524.8. (a) (1) The department shall investigate complaints*  
 27 *of excessive rates charged to residents of a social rehabilitation*  
 28 *facility.*

29 *(2) A rate charged by a social rehabilitation facility shall be*  
 30 *presumed excessive if the rate is more than 150 percent of the rate*  
 31 *the state pays for services provided by a social rehabilitation*  
 32 *facility.*

33 *(b) The department shall issue an order to a facility the*  
 34 *department determines is charging excessive rates and require the*  
 35 *facility to do either of the following:*

36 *(1) Reduce its rate to an amount that is no longer excessive, as*  
 37 *determined by the department.*

38 *(2) Justify its rate as reasonable.*

39 *(c) If the facility chooses to justify its rate, it shall justify its rate*  
 40 *to the department in a hearing conducted pursuant to the*



1 *administrative adjudication procedures in the Administrative*  
2 *Procedure Act, as described in Chapter 4.5 (commencing with*  
3 *Section 11400) of Part 1 of Division 3 of Title 2 of the Government*  
4 *Code.*

5 *(d) On completion of an administrative adjudication pursuant*  
6 *to subdivision (c), the department shall issue an order establishing*  
7 *a reasonable rate that the facility may charge its residents.*

8 *(e) An order issued pursuant to subdivision (d) may be subject*  
9 *to judicial review.*

10 *SEC. 4. No reimbursement is required by this act pursuant to*  
11 *Section 6 of Article XIII B of the California Constitution because*  
12 *the only costs that may be incurred by a local agency or school*  
13 *district will be incurred because this act creates a new crime or*  
14 *infraction, eliminates a crime or infraction, or changes the penalty*  
15 *for a crime or infraction, within the meaning of Section 17556 of*  
16 *the Government Code, or changes the definition of a crime within*  
17 *the meaning of Section 6 of Article XIII B of the California*  
18 *Constitution.*

19 ~~SECTION 1. Section 1596.66 of the Health and Safety Code~~  
20 ~~is amended to read:~~

21 ~~1596.66. (a) Each license-exempt child care provider, as~~  
22 ~~defined pursuant to Section 1596.60, who is compensated, in whole~~  
23 ~~or in part, with funds provided pursuant to the Alternative Payment~~  
24 ~~Program, Article 3 (commencing with Section 8220) of Chapter~~  
25 ~~2 of Part 6 of Division 1 of Title 1 of the Education Code or~~  
26 ~~pursuant to the federal Child Care and Development Block Grant~~  
27 ~~Program, except a provider who is, by marriage, blood, or court~~  
28 ~~decree, the grandparent, aunt, or uncle of the child in care, shall~~  
29 ~~be registered pursuant to Sections 1596.603 and 1596.605 in order~~  
30 ~~to be eligible to receive this compensation. Registration under this~~  
31 ~~chapter shall be required for providers who receive funds under~~  
32 ~~Section 9858 and following of Title 42 of the United States Code~~  
33 ~~only to the extent permitted by that law and the regulations adopted~~  
34 ~~pursuant thereto. Registration under this chapter shall be required~~  
35 ~~for providers who receive funds under the federal Child Care and~~  
36 ~~Development Block Grant Program only to the extent permitted~~  
37 ~~by that program and the regulations adopted pursuant thereto.~~

38 ~~(b) For the purposes of registration of the providers identified~~  
39 ~~in subdivision (a), the following procedures shall apply:~~

1     ~~(1) Notwithstanding subdivision (a) of Section 1596.603, the~~  
2 ~~provider shall submit the fingerprints and trustline application to~~  
3 ~~the local child care resource and referral agency established~~  
4 ~~pursuant to Article 2 (commencing with Section 8210) of Chapter~~  
5 ~~2 of Part 6 of Division 1 of Title 1 of the Education Code. The~~  
6 ~~local child care resource and referral agency shall transmit the~~  
7 ~~fingerprints and completed trustline applications to the department~~  
8 ~~and address any local problems that occur in the registration~~  
9 ~~system. If a fee is charged by the local child care resource and~~  
10 ~~referral agency that takes a provider's fingerprints, the provider~~  
11 ~~shall be reimbursed for this charge by the State Department of~~  
12 ~~Education, through the local child care resource and referral~~  
13 ~~agency, from federal Child Care and Development Block Grant~~  
14 ~~funds to the extent that those funds are available.~~

15     ~~(2) The department shall adhere to the requirements of Sections~~  
16 ~~1596.603, 1596.605, and 1596.607 and shall notify the California~~  
17 ~~Child Care Resource and Referral Network of any action it takes~~  
18 ~~pursuant to Sections 1596.605 and 1596.607.~~

19     ~~(3) The California Child Care Resource and Referral Network~~  
20 ~~shall notify the applicable local child care resource and referral~~  
21 ~~agencies, alternative payment programs, and county welfare~~  
22 ~~departments of the status of the trustline applicants and registered~~  
23 ~~trustline child care providers. The network shall maintain a toll-free~~  
24 ~~telephone line to provide information to the local resource and~~  
25 ~~referral agencies, the alternative payment programs, and the child~~  
26 ~~care recipients of the status of providers.~~

27     ~~(e) This section shall become operative only if funds~~  
28 ~~appropriated for the purposes of this article from Item~~  
29 ~~6110-196-890 of Section 2 of the Budget Act of 1991 are~~  
30 ~~incorporated into and approved as part of the state plan that is~~  
31 ~~required pursuant to Section 658E(a) of the federal Child Care~~  
32 ~~Block Grant Act of 1990 (Sec. 5082, P.L. 101-508).~~